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THE COURTS.

Proceedings in the Law Courts Yesterday.

The Fourth National Bank Case-Dangerous Counterfeits-The Lottery Muddle-The Bininger-Clarke Litigation-Decision in a Breach of Contract Case - Official Announcement of the Death of Ex-Judge Hearne.

UNITED STATES COMMISS ONERS' COUST. The Fourth National Bank Defalcation.

Before Commissioner Shields.
The United States vs. William Lieth.—The deslerk in the Fourth National Bank, and one Copeland. defraud said bank by traudulent entries, which to defraud said bank by iraudulent entries, which would enable the defendant Lieth, a depositor, to draw moneys from the bank in excess of the amount therein deposited by him. The examination was closed, so far as the taking of festimony was concerned, on the previous day of the hearing, and yesterday's session was devoted to the argument of counsel on either side.

Mr. Ethan Allen, for the defendant, moved for the dispussal of the case and the discharge of his client, on the ground that the government half signally failed to implicate the defendant in the "aiding and abetting" of Veltman and Copeland in the commission of the offence charged.

General Jackson, Assistant United States District Attorney, opposed the motion, and contended that the complicity of Lieth with the principal, Veltman, and the other accused. Copeland, was fully established.

aissioner Shields held the defendant to

A Dangerous Counterfeit. The United States vs. Charles Diamond .- The dedant was yesterday brought before Commissioner Shields charged with passing counterfeit fractional currency of the denomination of fifty cents. The stamps in question are a good imitation of the new stamps in question are a good imitation of the new fitty cent (i.iacoin vignette) issue. Indeed, the coun-terfeit is so dangerous and hable to deceive that the detective oilleers say government intends to call in the genuine issue. The defendant, who is the pro-prietor of the Santa Claus Hotel, was held to an-

The Laler and Kuhner Lace Case. The United States vs. John W. Lator and Frederick Kuhner. -The defendants were arrested some time since on a charge of falsely personating Custon officers, and as such entering on the premises of Mr. Dieverger and seizing and carrying away therefrom \$5,000 worth of face. The full particulars of the manner of proceeding adopted by the snam officers, as detailed in evicence, have already appeared in the HERALD. Commissioner Shields yesterday decided, aiter nearing the argument of counsel, on holding the accused for trial. Charge of Stealing Condemned Government

Property.
United States vs. John H. Breetman and John Lochr .- The defendants are charged with

stealing thirty-eight gross of matches, which had een condemued on account of being unstamped. The matches in question had recently been removed from Breetman's place, where they were on storage as government property till redeemed, and carried to the defendant Loenrs. The latter, when called upon by the Marshal to deliver up the property, re-fused, stating that he could not do so, as he had burned the matches. Commissioner Shields held the defendants to answer in \$1,000 bath.

SUPREME COURT-CHAMBERS. Lottery Muddle-Continuation of the Argument-Decision Reserved. Refore Judge Cardozo.

s vs. Wood et al. and Colton et al. vs. Sim. mons et al.—The arguments in these cases were resumed vesterday and occupied the court almost the entire day. The facts have already been fully Judge Cardozo reserved his decision.

Alleged Ill Treatment by a Husband-Motion oar vs. William A. Hoar.—This was a

motion on behalf of the plaintiff for fifteen dollars per week alimony, counsel fees and to award to her the custody of their culdren during the pendency of the aut for divorce instituted against the defendant. The complaint alleged gross ill treatment on the part of the delendant; but counter amdayits were read setting forth his good character.

SUPERIOR COURT-TRIAL TERM-PART L Alleged Non-Fulfilment of a Contract-lmportant Opinion. Before Judge McCunn.

Judge McCunn in rendering his decision in this case yesterday said:—The action is by a vendee against a vendor, to recover damages for a breach of contract on the part of the latter in failing to deliver in pursuance of a contract. The pleadings admit the contract. The plantings prove that the deleudants never delivered nor offered to deliver the oil, and that the plantings were ready to receive it; and that planting also made a demand for the oil, at the same time offering payment therefor. The defendants move for a nonsuit on the ground that there was no contract—first, for want of mutuality of obligation, and second, because the contract is not suescribed so as to satisfy the statute of frands. Conceding, for argument, that there is no mutuality of obligation, the obvious answer to the objection is that mutuality of obligation is not essential to the obligatory power of a contract. Under this contract the detendants reserved to themselves the option when they would deliver; and until they declared that option there was no obligation on the plaintiffs to make tender of payment. Again, under this contract, the plaintiffs were not bound to accept the oil unless it corresponded with the contract. The defendants finally demand a nonsult on the ground that in legal construction and effect the contract allows them an option to deliver the whole leu.000 gallons of oil on the last day of May; that the last day of May, 1868, being Sanday, they had a right to deliver on the honday following, that being the first day of June. I unheastatingly noid that the contract obliges the defendants to celiver 40,000 gallons on the last secular day of May (30th), so that even if the defendants' construction be correct they were in default in not delivering on the 30th of May, 1868. I was impressed that this contract required of the defendants a delivering on the 30th of May, 1868. I was impressed that this contract required of the defendants a delivering on the 30th of May, 1868. I was impressed that this contract required of the defendants a delivering on the 30th of May, 1868. I was impressed that this contract required of the defe vendor, to recover damages for a breach of contract on the part of the latter in falling to deliver in pur-The Bininger-Clarke Litigation-Temporary

Clarke vs. Bininger .- The court was crowded yesterday morning in anticipation of a severe legal terday morning in anticipation of a severe legal tussie and a judicial castigation. Judge McCunn, however, on taking his seat upon the bench announced that he was not just prepared to decide the questions involved in the matter. The questions involved were of the greatest importance, and his examination into them was not complete. It was examination into them was not complete. It was examination into them was not complete. It was examination of the greatest importance and his examination of taw, and this court or the United States tourt should be able to dispose of them without trouble. He would make his decision as soon as the labor of the trisl term would permit, and would nothly Mr. Seecher and his counsel of the result probably to-day. The motion would stand over in the meantime.

COURT OF SPECIAL SESSIONS.

Drivers at Balls-Literary Thieves. Before Judges Dowling and Bixby.

A CAUTION TO COACH DRIVERS Andrew Cockling was charged by officer George Armstrong with striking him with a whip. Cockling was driving a coach on Wednesday night and was at the Academy of Music waiting for company he had taken to the Roman Catholic Orphans' Hospital Ball. The officer wished Cockling to draw his coach into line, but he refused to do it, upon which Armstrong took hold of the horses' heads to put the carriage into line. Then Cockling struck the officer with the whip, and it was for this assault that Cockling was called upon to answer. There were several witnesses called or the defence, who endeavored to show that Armstrong struck the horses with his club.

show that Armstrong struck the horses with his club.

Judge Dowling, in sentencing the defendant te the payment of a fine of ten dollars, said that the police arrangements for the regulation of carriages were designed to be promotive of order and to give facilities to drivers. Any interference with those arrangements must therefore be punished.

LITERARY AND NEWSPAPER TRIEVES.

John Burns, a boy seventeen years of age, was charged with stealing a copy of "Asop's Fables" from his employer, Mr. James Miller. Mr. Miller said that he edgaged the boy in December last, and since then he had discovered that he had lost about \$180 worth of books. This copy of "Esop" was found upon him and was identified as the property of Mr. Ailler. Sent to the House of Refuge.

Francis Bassett and Richard T. Hayes were smong

charged with stealing newspapers and books from Mr. George J. Traon. Both these were intelligent, well dressed and respectably connected young men. Mr. Traon saked for the clemency of the Court though he said he had sustained very severe losses from blundering of this kind. Both young men begged the Court to deal leniently with them, and the sentence was suspended until Saturday.

William Weinberg, another intelligent young man, pleaded guilty to stealing books from Mr. S. Y. Yorston. Mr. W. F. Howe appeared for the prosecution, and said that the prisoner had been induced to commit these depredations by a discharged servant named Fielden, and commended him to the merciful consideration of the Court. He said that Mr. Yorston had lost from eight to nine thousand dollars worth of books by depredations of this kind.

The Court said that they would take the recommendation of the prosecution into consideration, and also the statement that there was reason to believe that it was his first offence. He, however, was quite old enough and intelligent enough to know better than to steal. Sentenced to two mouths in the Penitentiary.

COURT CALENDARS-THIS DAY.

SUPREME COURT—CHAMBERS.—Reserved cases.— NOS. 96, 111, 156, 157, 206, 216, 231, 232, 238, SUPERIOR COURT—THIAL TERM—Part 1.—Short causes.—NOS. 2545, 2549, 2646, 1546, 2524, 2473, 2605, 2588, 1882, 2619, 2165, 1874.

BROOKLYN COURTS.

UNITED STATES COMMISSIONERS' COURT.

A Liquor Dealer Arrented. Before Commissioner Jones.
The United States vs. Cantlach.—The defendant was arrested on the charge of being engaged in the retail liquor business on Mecker avenue, near the Penny bridge, without paying the special tax required by law. The defendant was held in \$500 ball to await the action of the Grand Jury in his case.

SUPREME COURT-CIRCUIT.

Action Against the New York and Hariem Navigation Company-Damages for Per-

Before Judge Gilbert.

Levi S. Parsons vs. New York and Harlem Navigation Company.—The plaintiff sued to recover damages in the sum of \$10,000 for injuries received by reason of the negligence of the defendants. Mr. l'arsons is a resident of Hariem, and on the 18th of March, 1868, was aboard the steamboat Nelly White, on a trip to New York, when she ran against the pier at Astoria, and he was so seriously injured that he was prostrated for some time and unable to attend to his business. A number of physicians who attended him testified that his injuries would be regularity.

attended him testified that his injuries would be permanent.
On the part of the defence it was claimed that the collision was unavoidable, masmuch as at the time tacre was a very heavy gate blowing the vessel towards the pler. In some way the bell signais of the pilot to "back" and "stop" missed, but the signai to increase the force was heard and the boar dashed against the pier. Previous to the collision some of the passengers on the upper deck cried out, "Stand back," whereupen the plaintiff, as the defence claimed, became terrified and jumped through a window, thereby receiving the injuries. There were no witnesses produced by plaintiff who saw him when he was injured. The jury rendered a verdict in lavor of plaintiff, who was granted an allowance of nve per cent.

CITY COURT. Doubly Divorced.

Henry Case vs. Ann Eliza Case.-The plainting out a year ago was divorced from defendant on about a year ago was divorced from defendant on the ground of adultery. Subsequently Mrs. Case in-stituted a counter suit for divorce against her hus-band on similar ground, and a decree was granted her, with an allowance-of aimony. Mr. Case, how-ever, retused to pay, and was put in contempt. Yesterday his counsel moved to set aside the order for alimony, and the Court took the papers and re-served decision.

A SCAVENGER'S LOGIC.

Those Sixty Miles of Filth-Harris Stirs Up Lion-The Latter Roars Vulgarly-Says Harris Falsifies and "Every Dog Has a Right to Wag His Own Tail."

The Board of Health has an official known as 'Sanitary Superintendent," who has the health of in his keeping. The Street Cleaning Asso ciation has an official known as superintendent whose duty it is to oversee the Augean job of collecting filthy deposits from the streets and their removal beyond the city limits. The former official is Dr. Elisha Harris; the latter Joseph Pickard. "In the course of human events" it came to Elisha's know course of human events" it came to Elisha's know-ledge that Joseph's gang of street scavengers grossly neglected to remove unhealthy deposits, defied pub-lic sentiment and endangered public health. Eli-sha made a report to his Board on last Wednesday week declaring that there were sixty miles of New York streets reeking with filth, dangerous to health superintendent Joseph, who retainsted in this caustic strain in a communication read at the session of the Board on Wednesday last, and placed on file as curiority in literature:-

STREET CLEANING ASSOCIATION,

25 CHAMBERS STREET, NEW YORK, Jan. 28, 1870. GEORGE B. LINCOLN, President Metropolian B of Health:- Your Sanitary Superintendent, Dr. Harris, in a re-

contreport to your loard makes the starting an nouncement "that the streets of New York are in a dangerously filthy condition," and in consequence of which the public neath is endangered.

As the announcement is positive and unqualified no other meaning can be derived from his words than that the streets generally and collectively are dangerously filthy. Notwithstanding the eminent authority from which the statement comes I most emphatically deby the truth of it, and it is as unjust as it is faise. I unheestatingly assert that there never was so much work done on the streets in any previous winter as there has been this, and that they were never in a more cleanly condition at this season of the year than they now are and have been during the present winter. True, there may be found filthy streets in some sections of the city now, as there always can; for as soon as we have finished cleaning such attreets the accumulation of filth recommences immediately. They require daily instead of weekly cleanings, as at present. As far as your superintendent's remarks apply to these streets they are true, but no further.

In his report he suggest the question, "Who is responsible for the filthy condition of such streets," I aver that on himself more than on any other person resist the responsibility. One of your ordinances prohibits the throwing of sakes, &c., into the streets, If instead of issuing his iniminating and alarming reports he would direct his efforts to the enforcement of this ordinance the filthy condition of the streets reterred to could not exist. Let him apply the preventive and there would be less necessity for the case proposed.

As a remedy for this he suggests that \$900 be expended for cleaning sixty mice of streets, at a cost of Jourteen dollars per mice. What a wonderfully effications remedy this would be: The appropriation, according to his estimate, would secure just one such cleaning.

As a remedy for this he suggests that \$900 be expended for cleaning sixty mice of storests; the cleaning sixty mic

The matter came before that Board, as already stated, when Joseph's letter was read, and the Board unanimously sacted upon Dr. Harris' suggestions. Joseph's letter was filed away among the archives of the omos. The

public who have read Dr. Harris' report and Mr. Pickard's can judge of the merits of the Esues raised, but it may be very safely inferred that the "cleanly condition of the streets during the present winter" is due more to the extraordinarily line weather than to the exertions of either the Board of Health or "Joseph."

The Voice of a Citizen. NEW YORK, Jan. 26, 1870.

TO THE EDITOR OF THE HERALD:-Will you allow me, through the medium of your valuable paper, to call the attention of the proper authorities to the disgraceful and fifthy condition of Fifty-second street, east of Second avenue. It is no wonder that disease and death runs rampant when streets are allowed to remain in such a state as the one mentioned.

A RESIDENT.

THE LATE BROOKLYN TRAGEDY

Second Day's Proceedings in the Trial of Edwin Perry, the Alleged Murderer of Thomas Hayes-More Newspaper Criticism by Prisoner's Counsel - Testimony for the Prosecution.

The second trial of Edwin Perry, the alleged murderer of Thomas Hayes, the night watchman at Harbeck's stores, Furman street, Brooklyn, was proceeded with yesterday morning, in the Court of Oyer and Terminer, before Judges Pratt, Voorhees and Johnson. The eight jurors empanelled on Wednesday were promptly on nand, and a new panel of 150 being ordered for yesterday considerable time was consumed in hearing the excuses of those who were not desirous of serving.

Before the empanelment of the balance of the jury was commenced Mr. John H. Bergen, of counsel for

Before the empanelment of the balance of the jury was commenced Mr. John II. Bergen, of counsel for defence, srose and addressed the Court as follows:—

IF THE COURT PLEASE—Before proceeding to the empanelment of the jury in this case there is a matter to which I desire to call the attention of the Court. Your Honors will recoilect that yesterday inorning I called the attention of the Court. Your Honors will recoilect that yesterday inorning I called the attention of the Court. Your Honors will recoilect that yesterday inorning I called the attention of the Court to the Brooklyn Dating Enion commenting upon this case in an improper manner. The Court took occasion at the time of taking a recess yesterday afternoon to state that it was improper for a newspaper to publish such an article during a trial of this kind. I said when I called the attention of the Court to it yesterday that I did not know whether the newspaper had been paid for publishing this article of not. I will state now that I believe it has been paid, and that the course it has pursued since the commencement of this investigation has been such that I can arrive at no other conclusion. I want to state further that it is a charity to suppose it was paid, and if it has not it has been guilty of an act of crutality towards a man on trial for his life unparalleled in the history of journalsm. This morning the same paper published yesterday. I deem it my duty as one of the counsel for the defence in this case to call the attention of the Court to the matter in such a shape that they may take action upon it. I have prepared an anticle which is still worse than the one published yesterday. I deem it my duty as one of the counsel for the defence in this case to call the attention of the Court to the natter have an attention of the Court please. If seems to me that this proceeding is in bad taste. Day terjor yes for the defence on the last trial went to the appers who were with a letter purporting to be signed by one of the jurors on the last trial went to

District Attorney Morris—It so happened that none of the jurors who were examined had seen either of the articles in the paper aliuded to. Judge Pratt—The Court will take the paper into

either of the articles in the paper shudes to.
Judge Pratt—The Court will take the paper into
consideration, but don't think it proper now to discuse the matter. The cierk will place tals on die.

EMPANELLING THE JUKY.
There was considerable difficulty experienced
in securing the full jury, which, in fact, was not
accomplished until about half-past twelve o'clock.

District Attorney Morris then opened the case for
the people, staining the facts which the prosecution
intended to prove and contending that they would
be able to snow that Edwin Perry was the person
who had shot and killed Thomas Hayes.

At the conclusion of Mr. Morris' remarks the
Court took a recess until two o'clock.

Upon the reassembling of the court the examinailon of witnesses for the people was commenced.

THE TESTIMONY FOR THE PROPLE.

The first witness examined was officer Jones Grant,
of the Forty-second precinct, who, with officer Campbell, conveyed Hayes to the station house after the
shooting, and also to the City Hospital, where he died
upon entering.

Officer Leaverst. of the Jefferson Market Police

bell, conveyed Hayes to the station house after the shooting, and also to the City Hospital, where he died upon entering.

Officer Leaycraft, of the Jefferson Market Police Court, testilled that after Perry had delivered himself into custody he took him from New York to Brooklyn; on the way to Brooklyn winess told prisoner that the person who had committed the murder had done so for the purpose of robbery, whereupon Perry said that there was no occasion for his robbing any one, and at the same time he exposed a roll of bills, including a ten dollar and a twenty dollar note; the prisoner also said he had been on a spree for two days, and God only knew where he had been.

Dr. McManus, of the City Hospital, stated the result of the post mortem examination of Hayes' body, as performed by him, and identified the built removed from the body. On the cross-examination by Mr. Spencer, however, witness stated that he made no mark on the ball, and therefore could not distinguish it from any other bail of that size.

Officer Andre, of the Jefferson Market Police Court, testified to the fact of the prisoner's delivering himself up at the court. The prisoner also stated that Perry had said that two nights previously he had been at a political meeting in Brooklyn, and after it adjourned had gone on a furnix with a party there. The prisoner did not say where he was on the night of the murder.

Mary Mason saw Perry on the evening of the murder about eight o'clock, going out of the gate of South ferry, New York side, and get on a car which went along South street; witness entered the same car and both rode as far as the Catharine ferry, when they left the car and went up Catharine street; witness entered the same car and both rode as far say the Catharine ferry, when they left the car and went up Catharines treet; when they left the car and went up Catharines treet; when they left the car and went up Catharine ferry, when they left the car and went up Catharine ferry, when they left the car and went up Catharine ferry.

was next examined.

The District Attorney inquired of him as to what Hayes said after he had been snot.

Mr. Spencer objected, and then proceeded to examine witness with reference to what occurred previous to Hayes' exclamation. Witness stated that when he heard it he was inside the car, going from the front to the rear olutious.

vious to Hayes' exclamation. Witness stated that when he heard it he was inside the car, going from the front to the rear platform.

District Attorney Morris' question was admitted, and in reply thereto.

Witness stated that after he heard the report of the pistol Hayes exclaimed, "I am shot; Ed. Perry shot me."

Mr. Spencer excepted, and his exception was noted.

Delaney then proceeded to narrate what occurred after this. When Hayes got on the car he said to witness, "For fear of me dying take my number," and taken gave his address as No. 252 Norta Second street, Williamsburg. The witness was subjected to a severe cross-examination by Mr. Spencer.

Henry Williams, the driver of the car, testified that he heard Hayes exclaim, "I am shot; Ned Perry shot me. Take me to the ferry." This witness was also subjected to a close cross-examination and in several instances his suffements differed from those made by him on the first trial.

William Ewens testified that on the day of the murder he was conversing with officer Smith, corner of Atlantic and Furman streets, about some trouble in Furman street (meaning the shooting), when Perry came along and said he did not believe that there had been any.

Thomas Clear, conductor of a car in which Perry rode a short distance along Columbia street, testified to this fact.

The court then, at hall-past four o'clock, adjourned

The court then, at half-past four o'clock, adjourned until to-day at half-past ten A. M.

The following extraordinary accident recently oc-curred at Brescia, Italy. Two boys caught a mouse, which they oathed in kerosene oil and then set fire to. The frightened animal seized one by the leg, and before they could detach it from its hold, both were so severely bitten that they died within three days.

NEW YORK CITY.

Manners and Matters in the Metropolis Testerday.

The Foundling Asylum-Important Addition to Bellevue Hospital-School Reunions - A Land Lottery - Accidents, Arrests-"Reddy" on the Rampage-Police and . Miscellaneous Items.

The following record will show the changes in the emperature of the weather for the past twenty-lour bours in comparison with the corresponding day of

There were only eight cases of smallpox reported

to the Sanitary Superintendent's office up to fficen minutes after two o'clock yesterday. The proprietor of the Dore paintings announ

that to-day and to-morrow will be the last two days on which non-subscribers will be admitted to view these fine works of art. The last of Professor Doremus' lectures will take

piace this evening, being one of the course delivered before the Young Men's Christian Association during the past month. His subject—history of Creation, hibital and scientific Compared—will, no doubt, be r means of support, died in Behevue Hospital on

Wednesday night. On Saturday last deceased fell down an embankment in Seventieth street, and being taken up insensible was conveyed to the bos-pital, where death cusued as stated.

yesterday at Dramatic Hail for the purpose of drawing for the lots belonging to the association at Spring Valley, Rockland county, N. Y. On one of the plots, as a prize, is located a neat and substantial summer villa, which was "pulled" in the course of the drawing by Mr. Peter J. Bogert, of the firm of Mealis & Co. The remains of an unknown man, far advanced in ecomposition, were found floating in the dock foot of pier 54 East river. Nothing could be judged con-

cerning the age or nativity of deceased. He was dressed in dark cloth coat, brown pants and vest and gatter snoes. In his pockets were found a bunch or keys, a knile and a small amount of fractional cur-Professor B. Waterhouse Hawkins will deliver his lecture on the "Age of Dragons," at Irving Hall, on Saturday evening next, for the benefit of disabled saturacy evening next, for the bencht of disabled soldiers and sallors. Professor Hawkins is the eminent English naturalist who has been engaged by the Park Commissioners in the reconstruction of lossil remains. The benevoient object of the lecture with, doubtless, secure him a full house. His great familiarity with this branch of science has given him the name of a standard authority.

The report published in yesterday's HERALD of the smashing of one of the windows in Semmons' opti-cian store, No. 687 Broadway, on Monday night, was obtained from the Pitteenth precint police, and it appears was not strictly correct. It was stated that there was no property stolen. Mr. Semmons reports that eight elegant opera glasses, valued at about \$400, were stolen. He reported the loss to the Mercer street station house, but they entered on the biotter "Nothing lost."

In the HERALD, a few days since, a statement ap In the Herald, a few days since, a statement appeared to the effect that no successor to Mr. O'Gorman, as President of the Irish Emigrant Society, had been elected. An official communication gives information in regard to the error of such statement, and says also that the following gentlemen were elected officers:—President, James Lynch; First Vice President, John H. Power; Second Vice President, James Giwell; Recording Secretary, J. J. Camplon; Chairman of the Finance Committee, James S. Hennessey.

The Ninth Class Association, of old Grammar School No. 14, will have their annual reunion dinner to-night at the Grand Hotel. The association, owing in a great measure to the exercions of its president, kir. James A. Lucas, has been snown to be such a succession means of caling together those who, in their early days, worked and labored with, and perhaps belabored each other, that several similar organizations have been started in imitation of this one. The rounion this vening bids fair to excei any of its predecessors. ner to-night at the Grand Hotel. The association

About twelve o'clock vesterday Reinhardt Ron rends, a German, thirty-two years of age, called at street, near Chambers, with his son, to take a bath. Shortly after leaving the water Mr. Behrends was taken ill and died in a few minutes. Deceased, who had been fil for a long time, was employed in the factory corner of White and Centre streets and lived at No. 16 Chrystie street. Coroner Rollins was notified to hold an inquest on the body and gave a permit for its removal to the late residence of deceased.

On Wednesday afternoon James Dunphy, laborer, while at work in a sewer in the Boulevard. was struck on the head by a heavy stone which fell was struck on the head by a heavy stone which is from the bank above and terriby crushed. He we taken up insensible and removed to Bellevue Host tak, where death ensued soon after admission. Cor ner Flynn was bothled to hoo an inquest on the body. Deceased was forty years of age, a native Ireland and lived in 13th street, between Four and Fifth avenues, where he has left a widow at six children with little or no means of support.

named Gracie, was left at the door of the Foundline Asylum, No. 17 East Twelfth street, a day or two Asylum, No. 17 East Twelfch street, a day or two since. Some benevolent person should adopt the little stranger, who is probably of gentle blood, and thus secure a blessing. The Founding Asylum, owing to the kind and untiring care manifested by Sister M. Irene and her assistants, is now un fat accompil, and should receive prompt public attention either from the City Councils or the Legislature. Thus far perseverance and private assistance have maintained it, and the great need for such an establishment is made every day more apparent.

day morning at Old Grammar School No. 29, in the First ward, by the pupils of the female department, inder the direction of Miss Katharine W. Whi under the direction of Miss Katharine W. White, Principal. The occasion was the distribution of semi-annual certificates and prizes to the most deserving of the pupils. The assembly room of the school was crowded to excess, and the utmost interest was manifested in the proceedings, which consisted of songs, choruses, recitations and exercises in reading. Mr. John A. Sullivan presided, and, on behalf of Congressman John Fox and Judge Hogan, presented two handsome gold medals to the young ladies whose deportment and advancement during the past six months had been pre-emiment.

A most important and necessary addition added to Bellevue Hospital yeaterday. It was dis-covered that on the arrival of the hospital ambulance with persons who had been accidentally injured very laborious work ensued in having them carried on stretchers to the wards in the surgical departments of the hospital, and that some change should be resorted to, so that the labor and inconvenience consequent thereon might be avoided. The Commissioners gave warden Brennan full control in the matter, and, although it was only submitted to them on their morning tour to the institution, at ten o'clock last night Mr. Brennan had his wishes fully gratified. The special ward will contain beds, neaters and all the other requisites, as well as a small apartment for the doctors. It will be seventy feet long and twenty-four feet wide. It is nicely painted in oil and is a pattern of elegance and comfort for those who may be so unfortunate as to become its inmates. lance with persons who had been accidentally in

POLICE INTELLIGENCE.

John W. Wood was charged with going to the Mecropolitan Hotel on the 26th inst. and obtaining food and lodging without the means of paying. He was brought to the Tombs and committed to answer.

John Cutter was charged with stealing twenty-five dollars from Edward Trevor while he was asleep on the steamer St. Lawrence. Paul W. Keating said he saw Cutter take the money. Alderman Moore com-

David Reid, charged with a burglary at 99 Fulton street on Wednesday night, and attempting to steal cigars and liquors to the value of \$100 therefrom, was brought to the Tombs resterday and committed to answer. In his informal examination Rein said he was nineteen years of age, was born in New York, resided at 56 Greenwich street and was by trade a printer. He said he was guilty of an attempt to communit hursders.

A queer case was under investigation yesterday,

before Justice Bixby, at the Torkville Police Court. David R. Stevenson, proprietor of a butcher shop at the corner of Pirty-fourth street and Eighth avenue, accused a young man named Omala Stevenson, who claims to be the complainant's son, with stealing a \$100 horse from him and selling the same to a man named John Quinn, at the horse market. The accused was committed, without bail, for trial.

Officer Halden, of the Twentieth precinct, yesterday arraigned a boy thirteen years of age, named Elias McKnight, before Justice Shandley, at Jefferson Market, upon complaint of William Healey, of 200
West Thirty-first street, charged, in company with
two others who are still at large, with forcibly opening the lock on his front store door on Wednesday
light with a jimmy and stealing property valued at
\$\frac{2}{2}\$. He admitted the charge and was locked up to
answer.

The "Aurora Guard" had a ball at Landmann' Garden, Sixty-minth street, on Wednesday night. Thomas Cox, of Yorkville, and Brian Donahue were two of those who attended it. Becoming some-what excited from the effects of alcohol, these two wortnies engaged in a quarrei, during which Cox almost bit off a portion of the most prominent organ of Donahuew face and otherwise distigured his countenance to a considerable extent. Detective Hamilton, of the Nineteenth precinc, arrested Cox and yesterday brought him before Justice Bixby; but there he was discharged, Donahue rerusing to

Geranima Donadi, proprietor of an oyster saloon at the corner of Thirtleth street and Eighth avenue was yesterday arraigned before Justice Shandley a was yesterian arraigned before Justice Shandley at Jefferson Market, and allowed to go on his parole to answer a charge preferred by a pretty young female about eighteen years of age, who had formally been in his employ as a cashier, named Jenny Allen, residing at 130 West Twentieth street, who charges that since she left his employ, the 19th inst., he has been continually following and annojing her by his presence and by letters. The defence endeavored to prove that the girl bore a bad character, but falled to do so.

Yesterday afternoon Reddy the Blacksmith came into the Tombs Police Court, in custody of Captain Waish, in a very dranken condition. Ready has Waish, in a very drunker condition. Ready has been on one of his periodical "drunks" for the last week, and his drunkenness takes the form of a combative spirit. Yesterday he made a descent upon an apple woman's stait and assaulted people in Broadway, and finished up by putting his hand through a jeweller's case, at No. 614 Broadway. Information was sent to Captain Waish, who went to arrest Reddy, but Reddy beat a retreat into a bird store in Broadway; his flight did not save him from the grasp of the Captain and he was brought before Alderman Moore, who committed him to answer for malicious mischier.

during the absence from home of Thomas Wheeler and family, No. 883 Third avenue, Elijah Howard whose father resides on the same floor with Mr. Wheeler, broke into the latter gentleman's rooms and stole therefrom a silk dress, two pairs of pantaioons and an overcoat. Mr. Wheeler, on his return home, went to the Nineteenth precincustation house, where he piaced the particulars of the roobery in the hands of detectives Levins and Hamilton. The officers succeeded in arresting Howard in the lott of a painter's snop on Sixty-dirst street, and found in his possession pawa tickets representing the property stolen from Mr. Wheeler. Howard was temporarily committed yesterday afternoon by Justice Bixby, at the Yorkville Police Court, for examination.

Between two and three o'clock yesterday morn ing the figuor store of John Reilly, No. 1.031 Third avenue, was entered by burgiars, who succeeded in taking off with them about \$18 90 in small change. Officer Michaels, of the Ninetochth preclint, saw take burgiars—three in number—emerging from the store inrough the cellar door and fired at them, but did not succeed in hitting any of them, and they got off. Officers Hamilton and Lévins, who were in the neighborhood looking after other characters, heard the shooting and came upon the scene too late, however, to make a capture. Subsequently they arrested one of the burgiars, named Patrick Clifford, a nototious thief, at a bail up town. In Chifford's possession was found some of the money stolen from the store, which Mr. Reilly identified. Clifford was committed for trust by Justice Bixby, at the York-ville Policé Court, before whom he was taken jesterday. avenue, was entered by burgiars, who succeeded in

ble appearance was arraigned before Justice Bixby. at the Yorkville Police Court, charged with picking at the Yorkville Police Court, charged with picking the pocket of Airs. Lydia N. Willetts, of the town of Jericho, L. I., while crossing to this city on one of the Honter's Point ferry coats. The prisoner, who gave her name as Bridget McNally, stated that sne picked up the pocketbook on board of the boat, and gave it back to the lady it belonged to as soon as she knew that she was the owner of it. It contained but seven dollars and fifty-three cents, and was taken, so the complainant claimed, by the prisoner from her dress pocket. At first the prisoner denied that she had stolen the pocketbook, but when about being searched in the Twenty-first precinct station house, where she was conducted by officer Morgan, house, where she was conducted by officer Morgan, she dropped it on the ground. She was committee for trial in default of bail.

THE GREAT BORE FIGHT.

The Paeumatic Transit Company Before the Courts-How Broadway Staggered-Citizens' Rights and Companies' Privileges-The Mayor on the Qui Vive-Motion for an Injunction-The City Claims \$100,000.

Not long since the HERALD exposed the fact that Broadway, between Warren and Murray streets was perceptibly sinking. The announcement naturally created some alarm, and not a little anxiety was manifested to ascertain the caule. With h usual promptness and observation Mayor Hall anpointed commissioners to examine the underground operations of the Transit Company, to whose burrowing propensities the shaky condition of the part of Broadway referred to was attributed. Vested with full authority the commissioners entrusted by the Mayor proceeded to make the apparently much needed examination. But the superintendent of the company refused to allow them to inspect the works, referring them to the Croton Board for any explanation that might be necessary. No satisfacinformed that the Board could deal only with the Mayor in the matter. Upon this inquiries were at once set upon foot, but the only information that could be obtained from the Croton Board, even by the Mayor, was that one of the officers of the Board examined the work daily and pronounced is per fectly safe. That announcement, however, served but little to allay the excitement when subsequently there appeared in the HERALD & full exposition the plans and purposes or the company and the methods about to be adopted to carry them out, Acting under the knowledge and belief that th work was being carried on in contravention of the charter granted to the company and that serious results might arise from the manner in which they were progressing, Mayor Hall has requested Mr. Richard O'Gorman, Counsel to the Corporation, to apply for an injunction enjoining the company from excavating the soil beneath any streets of the city and from constructing a tunnel or pneumatic tube, and that the street mentioned be surrendered and

The following is a copy of the complaint:-

restored.

The following is a copy of the complaint:—

SUFREME COURT.—The Mayor, Aldermen and Commonality of the City of Amer York vs. The Beach Paeumante Transit Company.—The plaintins complain and allege:—

First.—That the plaintiffs are a municipal corporation, having and exercising the powers conferred upon them by their charters and the statutes of the State prescribing and defining the same, to which they reier as part of this complaint.

Second—That they are the owners in fee of that second—That they are the owners in fee of that certain parcel of land in the city of New York, being a public street therein and known as "Broadway," and are now seized and in possession thereof.

Third—That the defendants are a corporation, incorporated pursuant to the law of the State Known as chapter 40 of the laws of 1868, and the laws amendatory thereof, for the purpose of constructing a certain pneumatic tube and conveying letters, packages and merchandise thereby.

Fourth—That the said defendants, without lawful right or authority or permission of the plainting heretofore, have entered upon the said land at the intersection of Warren street with Broadway, and have excavated under said street a large tunnel eight feet in diameter, extending now in a southerly direction toward Murray street 150 feet or thereabouts, and are now continuing to excavate and tennel at the rate of about four incal feet per day.

Fifth—The plaintiffs further allege that by reason of the excavation of the soil under said street, by the defendants and the occupancy of the tunnel so constructed by them the plaintiffs are and lorever will be prevented from using that portion or said land for the purpose of constructing sewers or larging water or gas pipes, or for any other purpose for which they have sustained damages by reason of the acts of the defendants aforesaid in the sum of \$100,000, and that by a continuous of the sum of \$100,000, and that by a continuous of the soil of the defendants and the sum of \$100,000, and that by a continuous of th

by them, and that said defendants, their officers agents, servants or workmen may be perpetually enjoined and restrained from excavating the soli beneath any streets of said city, and from constructing a tunnel or puternatic tube or tubes thereunder, and that the defendants surrender and restore said street to them, and that in the meantime, during the pendency of this intigation, the said defendants be so restrained by the order of this court, and that plaintims have judgment for their costs and such other relief as may seem meet to this court.

RIGHARD O'GORMAN, Counsel to the Corporation.

Pursuant to the foregoing a motion will be made in the Supreme Court Chambers, and much interest

in the Supreme Court Chambers, and much interest is attached to the result of the litigation.

THE WILKES LIBEL SUIT.

A Crowded Court Room-Closing Proceed. ings-Summing Up of Counsel-Eloquent Charge to the Jury by Judge Bedford-The Defendant Acquitted.

At noon yesterday the summing up of connsel in the case of Saunders D. Bruce, charged with libeling George Wilkes, took place in the Court of Gene ral Sessions, before Gunning S. Bedford, City Judge. The room was well crowded with spectators, par-ticularly members of the sporting fraternity and readers of those journals, who evinced the greatest interest in the proceedings, waiting with all the patience they could command the enarge of the City Judge and the verdict of the jury. In the charge Judge Bedford quoted the words of the alleged libel, and briefly, but very clearly, explained the law of he very eloquently referred to the mission and duties of the newspaper press, wherein and by what course of action its high mission was subserved, and in what laches it deserved only the scorn and contempt of

Ex-Judge Clark proceeded to argue that the alleged libelious article evidently did not mean Mr. Wilkes, but some other party, who had attacked the Turf, Field and Farm in the complainant's paper. He commenced upon the allegations of the indictment in an ingenious train of remark, claiming that the alleged libelious sentences were capable of an

District Attorney Garvin followed on behalf the people. He commenced by observing that he listened in vain to the defendant's counsel for a reason or excuse for the way in which Mr. Wilkes had been held up to the public for ridicule, hatred and contempt. Mr. Garvin asked the jury if they thought it complimentary to charge a man with dealing in substitutes during the great rebellion? and then proceeded to show how a person could be libelied by pictures or by language. He commented upon the significant fact that the defence attempted to have the case postponed on the ground of the absence of a witness named John Morrissey, who was actually in court before the trial of the cause fairly commenced, but they had not subpænaed bim. He also ailuded to the fact in strong terms that the prisoner did not teatify in his own behalf, and closed with an eloquent appeal te the jury to see that wanton and malicious attacks upon private character should be promptly reprehended by a vergict of guilty.

JUDGE BEDFORD'S CHARGE. Judge Bedford then proceeded to charge the jury

as follows:—
GENTLEMEN OF THE JUNY—The defendant at the bar, Saunders D. Equoe, has been indicted by the Grand Jury for thee, which means for the purposes of this case "the wanton and manifolds publication of an article without justification." That portion of the alleged libelious article on which the District Attorney asks for a conviction is as follows:—

Attorney asks for a conviction is as follows:—

The second Sampson is an editor and not a popular orator. He opened his initiant eyes upon this cards, feaven knows how, when or where. He grew to manhout foring Governor Seward much because he refused to parfon a youthful indiscretion. For a while he made his home on the Pacific count; teaching the auventurous men or that golden inad the value of law and order; winning immostantly as the friend and heir of the muruelved Broueries, and then returning to New York with the spoils of friendship, to establish a sporting paper, gaining fresh laures by driving the genial williams T. Forter, a runnel man, into a dramand's grave. Since than he has figured at islay a prize high, one usen an honorad quest at the Palace of St. James without the knowledge of the Queen; assisted in carrying on a stupendous war by speculating in substitutes.

In every case of alleged newspaper libel the prosecution must prove the following facts:—First, tae publication of the article; secondly, that the accused at the time of the publication of the article; secondly, that the accused at the time of the publication of the article in question was the propictor and editor of the newspaper containing the article. The prosecution then ress their case, and the law throws the burden of proof upon the defence to prove a justification, and failing in this the law deciares the accused guilty of the charge and then it becomes your duty to reader a verdict accordingly. In order to make out the case for the people the District Attorney cathed the following witnesses:—Mr. Charles J. Foster, who testimes that, on the 4th of January, 1870, he purchased a copy of the Turf, Field and Furm of the issue of need tillat. On the start of the issue of December 31, 1809; that the Tury, Field and Furn of the issue of December 31, 1809; that the Tury, Field and Start was positioned by Saunders D. Saunders D.

After an absence of an hour the jury returned to the court with a verdict of not guilty. The specia-tors, after "waiting for the verdict," quiety left the court without the signtest public manifestation of feeling of any kind, and thus ended the Wilkes group those suit.